REMARKS

This paper is in response to the final official action dated September 25, 2006 (hereafter, the "official action"). This paper is timely-filed.

Claims 1 and 9-20 are pending. By the foregoing, claim 1 has been amended to recite "wherein the anhydrous cosmetic composition contains less than 5 weight percent water." Support may be found, for example, at page 3, lines 31-32 of the present application. No new matter has been added.

Claims 1 and 12-20 have been rejected under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,538,720 to Jendryssek-Pfaff *et al.* ("U.S. '720") in view of U.S. Patent No. 6,540,989 to Janchitraponvej ("U.S. '989"). Claims 9-11 have been rejected under 35 U.S.C. §103(a) as obvious over the combination of U.S. '720 and U.S. '989 further in view of EP 027 730 ("EP '730").

The various bases for claim rejections are addressed below in the order presented in the official action. Reconsideration of the application, in view of the following remarks, is solicited.

CLAIM REJECTIONS – 35 U.S.C. §103

Claims 1 and 12-20 have been rejected as obvious over U.S. '720 in view of and U.S. '989.

Claims 9-11 have been rejected as obvious over the combination of U.S. '720 and U.S. '989 further in view of EP '730.

In order to establish a *prima facie* case of nonobviousness, the prior art references must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); *see also* M.P.E.P. § 2142. Further, the prior art must suggest the desirability of the claimed invention. *See* M.P.E.P. § 2143.01. Because the cited prior art does not teach all of the claim limitations nor suggest the desirability of the claimed invention, the applicants respectfully traverse the rejections of claims 1 and 9-20.

U.S. '720 discloses "[a] composition for hair treatment comprising at least two compositions (A) and (B) that are kept separate until application ...." *See* U.S. '720 abstract. Composition (A) "contains a physiologically compatible salt that generates heat upon admixture with water, and at least one thickening agent...." *See* U.S. '720

at column 1, lines 33-37. Composition (B) "contains at least one polyalcohol that is liquid at 25 °C...." *See* U.S. '720 at column 1, lines 37-38.

However, U.S. '720 consistently emphasizes that the compositions (A) and (B) are *kept separate until mixture with water*. *See* U.S. '720 at abstract; at column 1, lines 40-43; at column 2, lines 10-16; at column 3, lines 1-8; examples 1-5; and claim 1. In fact, U.S. '720 teaches "[t]he *essential component* of composition (B), *which is kept separate* from the composition (A) containing the anhydrous salt, is a polyalcohol...." *See* U.S. '720 at column 2, lines 10-12.

Thus, U.S. '720 teaches against combining the salt and the polyalcohol in the absence of water. Accordingly, U.S. '720 does not disclose or suggest an anhydrous cosmetic composition containing less than 5 weight percent water, as recited by all pending claims 1 and 9-20. The obviousness rejections of claims 1 and 9-20 should be removed for at least this reason.

Additionally, as recognized by the examiner at page 3 of the official action, U.S. '720 does not disclose or suggest a phase changing agent having a melting point of from about 35° C to about 60° C, as recited by all pending claims 1 and 9-20. Such phase changing agents are believed to absorb a heat from the heat generating agent by changing its phase from liquid to solid, and then releasing heat slowly by changing from liquid to solid, as described at page 5, lines 26-33 of the present application.

In contrast, U.S. '720 discloses that the "polyalcohol ... has a dual function: firstly it serves as a carrier, and secondly, it serves as a thermal reservoir to maintain the heat developed by the mixture of the metal salt with water ...." *See* U.S. '720 at column 2, lines 22-26. Thus, U.S. '720 suggests that compositions including a polyalcohol (such as the polyethylene glycol recited by all claims) include a sufficient thermal reservoir. Accordingly, U.S. '720 does not disclose or suggest any motivation for including a phase changing agent, as recited by all pending claims 1 and 9-20, in cosmetic compositions.

Therefore, the examiner turned to U.S. '989. U.S. '989 discloses a variety of conditioning materials, but suggests that the various members of the classes conditioner materials not specifically recited in the claims are equivalent. Specifically, U.S. '989 discloses:

> Conditioner materials in general, may be selected from the group consisting of quaternary ammonium compounds, amidoamines, silicones, cationic polymers, and hydrocarbons and fatty alcohol either alone or together with the proviso that there must be included in compositions of the invention at least one amidoamine in combination with at least one silicone. Without wishing to be bound by any theory, it is believed that the compositions of the invention, function as conditioners, for example, because the amidoamine acts as a deposition aid for the silicone. Again an important feature of the compositions of the invention is that it contain at least one amidoamine, and at least one silicone.

Thus, U.S. '989 does not provide the skilled artisan with the motivation to modify the compositions of the '720 patent with any particular conditioner material, much less a phase changing agent selected from the group consisting of cetyl alcohol, stearyl alcohol, and mixtures thereof, as recited by all pending claims 1 and 9-20. Accordingly, the obviousness rejections of claims 1 and 9-20 should be removed for at least this additional reason.

CONCLUSION

It is submitted that the application is in condition for allowance. Should the examiner wish to discuss any matter of form or procedure in an effort to advance this application to allowance, the examiner is respectfully invited to telephone the undersigned attorney at the indicated telephone number.

Respectfully submitted,

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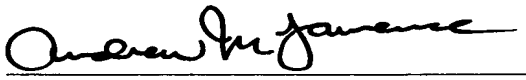

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